IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Revision No. 906/2001
(Old No. 1180 of 1995)

Saiyad Mohd. Qasim Ali ……Revisionist

Vs.

State of U.P. and other …….Respondents

Hon'ble Irshad Hussain, J.

None appear for the revisionist. Heard Sri A. Rab learned Addl. G.A. and perused the record.

The revision under Section 397/401 of the Code of Criminal Procedure (for short 'Code') was preferred against the judgment and order dated 19.7.1995 passed by the then A.C.J.M., Dehradun alleging that the proper appraisal of the evidence was not made by the learned Magistrate while recording the finding of not guilty against the accused-respondent no.2.

Having gone through the judgment in question, it is evident that the allegation of the FIR was not found supported from the evidence of Saiyad Mohd. Qasim Ali (PW-1). It is also of significance that the report of the incident, which took place at about 8:30 PM on 29.9.1991, was not lodged on the same day but it was lodged on the next day and no explanation was given in this regard. This aspect of the matter was considered by the learned Magistrate. Further the evidence of the relevant witness, namely, Draksha Tabbassum was also not found reliable in view of the fact that the respondent-accused was having visiting terms with the family members and he had never behaved indecently with any of them. Considering this, the judgment of the learned Magistrate does not suffer from vice of impropriety in appreciation of the evidence. The petition is, therefore, not maintainable and it cannot be admitted. The same is dismissed. Consign.

(Irshad Hussain, J.)

Dated 06.04.2004

Rawat